

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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KENNETH J. MARINO,

Plaintiff,

v.

CROSS COUNTRY BANK, and  
APPLIED CARD SYSTEMS, INC.,

Defendants.

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C.A. No. 07-426 GMS

**ORDER**

At Wilmington, this 6<sup>th</sup> day of June, 2008, after having reviewed and duly considered the plaintiff's Motion to Amend the Complaint;

IT IS ORDERED that the Motion to Amend (D.I. 22) is DENIED. Pursuant to Federal Rule of Civil Procedure 15, leave to amend should be "freely given when justice so requires." Fed. R. Civ. P. 15(a). The court has discretion to deny leave to amend when there exists undue delay, bad faith, dilatory motive or undue prejudice to the opposing party, or when the amendment would be futile. *See Foman v. Davis*, 371 U.S. 178, 182 (1962); *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997). In the present case, the court concludes that the plaintiff's proposed amendment would be futile.

/s/ Gregory M. Sleet  
CHIEF, UNITED STATES DISTRICT JUDGE